IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF TEXAS
MARSHALL DIVISION

BENEFICIAL INNOVATIONS, INC.,	)	
	)	
Plaintiff,	)	
	)	
vs.	)	Case No. 2:07-CV-263-TJW-CE
	)	
BLOCKDOT, INC., CAREERBUILDER, LLC, CNET NETWORKS, INC., DIGG, INC., EBAUMôS WORLD, INC., JABEZ NETWORKS, INC., THE NEW YORK TIMES COMPANY, THE WASHINGTON POST COMPANY, THE WEATHER CHANNEL INTERACTIVE, INC.,	)	**JURY TRIAL DEMANDED**
	)	
Defendants.	)	

ANSWER AND AFFIRMATIVE DEFENSES
OF DEFENDANT BLOCKDOT, INC.
TO PLAINTIFF'S FIRST AMENDED COMPLAINT

Defendant BlockDot, Inc. (ñBlockdotò or ñDefendantò) files this Answer and Affirmative Defenses to Plaintiff Beneficial Innovations, Inc.ôs (ñBeneficial Innovationsò or ñPlaintiffò) First Amended Complaint (ñComplaintò) and states as follows:

Introduction

1. Defendant is without knowledge or information sufficient to form a belief as to the truth of the allegations in Paragraph 1 regarding Plaintiffôs ownership of U.S. Patent No. 6,712,702 (ñthe ó702 Patentò) and U.S. Patent No. 6,183,366 (ñthe ó366 Patentò) and, therefore, denies the same. Defendant is without knowledge or information sufficient to form a belief as to infringement by other defendants and therefore denies the allegations in Paragraph 1 as to those defendants and affirmatively denies the allegations in Paragraph 1 as they apply to Blockdot.

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The remaining allegations of Paragraph 1 are legal conclusions to which no response is required. To the extent that any response is required, such allegations are hereby denied.

Jurisdiction and Venue

2. Defendant admits that the Complaint alleges that this is an action for patent infringement under the provisions of the Patent Laws of the United States, Title 35, United States Code. Defendant admits that subject-matter jurisdiction of patent claims is conferred upon this Court by 28 U.S.C. §§ 1331 and 1338(a). Defendant denies any patent infringement and any remaining allegations of Paragraph 2.

3. Defendant is without knowledge or information sufficient to form a belief as to alleged business activities or as to infringement by other defendants and therefore denies paragraph 3 as to those defendants. Defendant admits that Blockdot is doing business in Texas and elsewhere in the United States. Defendant denies any patent infringement of the ó702 Patent and the ó366 Patent. The remaining allegations of Paragraph 3 are legal conclusions to which no response is required. To the extent that any response is required, such allegations are hereby denied.

Plaintiff Beneficial Innovations

4. Defendant is without knowledge or information sufficient to form a belief as to the truth of the allegations in Paragraph 4 and, therefore, denies the same.

Defendants

5. Defendant Blockdot admits that it is a corporation existing under the laws of the State of Texas, and has its principal place of business in Dallas, Texas.

6. Defendant is without knowledge or information sufficient to form a belief as to alleged business activities or as to infringement by other defendants and therefore denies paragraph 6.

7. Defendant is without knowledge or information sufficient to form a belief as to alleged business activities or as to infringement by other defendants and therefore denies paragraph 7.

8. Defendant is without knowledge or information sufficient to form a belief as to alleged business activities or as to infringement by other defendants and therefore denies paragraph 8.

9. Defendant is without knowledge or information sufficient to form a belief as to alleged business activities or as to infringement by other defendants and therefore denies paragraph 9.

10. Defendant is without knowledge or information sufficient to form a belief as to alleged business activities or as to infringement by other defendants and therefore denies paragraph 10.

11. Defendant is without knowledge or information sufficient to form a belief as to alleged business activities or as to infringement by other defendants and therefore denies paragraph 11.

12. Defendant is without knowledge or information sufficient to form a belief as to alleged business activities or as to infringement by other defendants and therefore denies paragraph 12.

13. Defendant is without knowledge or information sufficient to form a belief as to alleged business activities or as to infringement by other defendants and therefore denies paragraph 13.

Claim for Patent Infringement
(Infringement of the ‘702 Patent)

14. Defendant refers to and incorporates herein by reference the responses to each of the allegations in Paragraphs 1-13 above.

15. Defendant admits that Exhibit A attached to the Complaint is what is believed to be a copy of the text of the ó702 Patent and that this document indicates that the United States Patent and Trademark Office issued the ó702 Patent, entitled ñMethod and System for Playing Games on a Network,ò on March 30, 2004. Defendant denies that the ó702 Patent was duly and legally issued. Defendant is without knowledge or information sufficient to form a belief as to the truth of the remaining allegations of paragraph 15, and, therefore, such allegations are hereby denied.

16. Defendant denies any patent infringement of the ó702 Patent. Defendant is without knowledge or information sufficient to form a belief as to infringement by other defendants and therefore denies the allegations in Paragraph 16 as to those defendants and affirmatively denies the allegations in Paragraph 16 as they apply to Blockdot.

17. Defendant denies any patent infringement of the ó702 Patent. Defendant is without knowledge or information sufficient to form a belief as to infringement by other defendants and therefore denies the allegations in Paragraph 17 as to those defendants. Defendant is without knowledge or information sufficient to form a belief as to the remaining allegations of Paragraph 17, and, therefore, such allegations are hereby denied.

18. Defendant denies any patent infringement of the ó702 Patent. Defendant is without knowledge or information sufficient to form a belief as to willfulness by other defendants and therefore denies the allegations in Paragraph 18 as to those defendants and affirmatively denies the allegations in Paragraph 18 as they apply to Blockdot.

19. Defendant denies any patent infringement. The remaining allegations of Paragraph 19 are legal conclusions to which no response is required. To the extent that any response is required, such allegations are hereby denied.

20. The allegations of Paragraph 20 require no response. To the extent that any response is required, such allegations are hereby denied.

Claim for Patent Infringement
(Infringement of the '366 Patent)

21. Defendant refers to and incorporates herein by reference the responses to each of the allegations in Paragraphs 1-20 above.

22. Defendant admits that Exhibit B attached to the Complaint is what is believed to be a copy of the text of the ó336 Patent and that this document indicates that the United States Patent and Trademark Office issued the ó366 Patent, entitled ñNetwork Gaming System,ò on February 6, 2001. Defendant denies that the ó366 Patent was duly and legally issued. Defendant is without knowledge or information sufficient to form a belief as to the truth of the remaining allegations of Paragraph 22, and, therefore, such allegations are hereby denied.

23. Defendant denies any patent infringement of the ó366 Patent. Defendant is without knowledge or information sufficient to form a belief as to infringement by other defendants and therefore denies the allegations in Paragraph 23 as to those defendants and affirmatively denies the allegations in Paragraph 23 as they apply to Blockdot.

24. Defendant denies any patent infringement of the ó366 Patent. Defendant is without knowledge or information sufficient to form a belief as to infringement by other defendants and therefore denies the allegations in Paragraph 24 as to those defendants. Defendant is without knowledge or information sufficient to form a belief as to the remaining allegations of Paragraph 24, and, therefore, such allegations are hereby denied.

25. Defendant denies any patent infringement of the ó366 Patent or the ó702 Patent. Defendant is without knowledge or information sufficient to form a belief as to willfulness by other defendants and therefore denies the allegations in Paragraph 25 as to those defendants and affirmatively denies the allegations in Paragraph 25 as they apply to Blockdot.

26. Defendant denies any patent infringement of the ó366 Patent. The remaining allegations of Paragraph 26 are legal conclusions to which no response is required. To the extent that any response is required, such allegations are hereby denied.

27. The allegations of Paragraph 27 require no response. To the extent that any response is required, such allegations are hereby denied.

28. Defendant denies any and all allegations of the Complaint that are not expressly admitted above.

Prayer for Relief

The Prayer for Relief requires no response. To the extent that any response is required, the Prayer for Relief is hereby denied.

Affirmative Defenses

1. Blockdot does not infringe, has not infringed, and does not and has not induced infringement or contributed to infringement of any claim of the ó702 Patent or the ó366 Patent under any theory of infringement, including direct infringement, indirect infringement, literal infringement or infringement under the doctrine of equivalents.

2. The claims of the ó702 Patent and the ó366 Patent are invalid and void for failing to meet the requirements of Title 35, United States Code, including, but not limited to Sections 102, 103 and 112 thereof.

3. Plaintiff is estopped from asserting construction of any claim of the ó702 Patent or the ó366 Patent that covers any acts of the Defendant or any products made, used, sold or offered for sale by the Defendant because of amendments and arguments made by the inventor to overcome prior art to obtain allowance of the patent claims.

4. Plaintiffós claims for damages are barred by the equitable doctrine of laches in view of its unreasonable delay in bringing suit.

5. Plaintiffós claims for damages and request for prospective relief are precluded by the intervening rights doctrine including that set forth in 35 U.S.C. §§ 307 and 252 (as referenced in § 307).

Defendant reserves the right to assert additional affirmative defenses and counterclaims after further investigation, including defenses related to validity and enforceability.

Prayer for Relief

WHEREFORE, Defendant Blockdot respectfully requests the Court to order:

A. that the Complaint be dismissed in its entirety, with prejudice, and that Plaintiff take nothing;

B. that the Court find each and every claim of the ó702 Patent and the ó366 Patent is invalid and unenforceable;

C. that the Court find that Blockdot does not infringe the claims of the ó702 Patent or the ó366 Patent;

D. that the Defendant Blockdot be awarded its costs of suit;

E. that this is an ñexceptional caseò under 35 U.S.C. § 285, thereby entitling Defendant Blockdot to an award of attorneyôs fees; and

F. that Defendant Blockdot be awarded such other and further relief to which it may be entitled.

Dated: July 25, 2007

Respectfully submitted,

/s/ J. Thad Heartfield
J. THAD HEARTFIELD
State Bar No. 09346800
THE HEARTFIELD LAW FIRM
2195 Dowlen Road
Beaumont, Texas 77706
Telephone: (409) 866-3318
Facsimile: (409) 866-5789
thad@jth-law.com

Of Counsel:

JOHN GARY MAYNARD (*Pro Hac Vice* Motion Pending)
GREGORY M. MURPHY (*Pro Hac Vice* Motion Pending)
HUNTON & WILLIAMS LLP
951 East Byrd Street
Richmond, Virginia 23219
Telephone: (804) 788-8200
Facsimile: (804) 788-8218

BRADLEY W. GROUT (*Pro Hac Vice* Motion Pending)
HUNTON & WILLIAMS LLP
Bank of America Plaza, Suite 4100
600 Peachtree Street, N.E.
Atlanta, Georgia 30308
Telephone: (404) 888-4000
Facsimile: (404) 888-4190

ATTORNEYS FOR DEFENDANT
BLOCKDOT, INC.

CERTIFICATE OF SERVICE

The undersigned certifies that all counsel of record who have consented to electronic service are being served with a copy of this document via the Courtôs CM/ECF system per Local Rule CV-5(a)(3) on this the 25th day of July, 2007. Any other counsel of record will be served by first class mail.

/s/ J. Thad Heartfield
J. Thad Heartfield